

AMENDED IN ASSEMBLY JUNE 15, 2016

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1174

**Introduced by Senator McGuire
(Coauthors: Senators Beall, Hancock, Liu, and Mitchell)**

February 18, 2016

An act to amend Section 2220.05 of, and to add Section 2245 to, the Business and Professions Code, and to add Section 14028 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1174, as amended, McGuire. Medi-Cal: children: prescribing patterns: psychotropic medications.

Existing law, the Medical Practice Act, among other things provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Under existing law, the board's responsibilities include enforcement of the disciplinary and criminal provisions of the act.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including early and periodic screening, diagnosis, and treatment for any individual under 21 years of age. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law establishes a statewide system of child welfare services, administered by the State Department of Social Services, with the intent that all children are entitled to be safe and free from abuse and neglect.

This bill would require the Medical Board of California to conduct on a quarterly basis an analysis of data regarding Medi-Cal prescribers

physicians and their prescribing patterns of psychotropic medications and related services using data provided by the State Department of Health Care Services and the State Department of Social Services. The bill would require the data to include a breakdown by specified population categories of children, including children in foster care. Services, as prescribed. The bill would require that the data concerning psychotropic medications and related services be shared pursuant to a data-sharing agreement and would require that, every 3 years, the Medical Board of California, the State Department of Health Care Services, and the State Department of Social Services consult and revise the methodology, if determined to be necessary. Commencing July 1, 2017, the bill would require the Medical Board of California to report quarterly annually to the Legislature, the State Department of Health Care Services, and the State Department of Social Services the results of the analysis of the data. The bill would require the Medical Board of California to review the data in order to determine if any potential violations of law or excessive prescribing of psychotropic medications inconsistent with the standard of care exist and conduct an investigation, if warranted, and would require the board to take disciplinary action, as specified. The bill would require the Medical Board of California to disseminate guidelines for the prescribing of psychotropic medications to children and adolescents on an annual basis to any prescriber who has been flagged for review. The bill would require the board to handle on a priority basis investigations of repeated acts of excessive prescribing, furnishing, or administering psychotropic medications to a minor, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2220.05 of the Business and Professions
- 2 Code is amended to read:
- 3 2220.05. (a) In order to ensure that its resources are maximized
- 4 for the protection of the public, the Medical Board of California
- 5 shall prioritize its investigative and prosecutorial resources to
- 6 ensure that physicians and surgeons representing the greatest threat
- 7 of harm are identified and disciplined expeditiously. Cases
- 8 involving any of the following allegations shall be handled on a

1 priority basis, as follows, with the highest priority being given to
2 cases in the first paragraph:

3 (1) Gross negligence, incompetence, or repeated negligent acts
4 that involve death or serious bodily injury to one or more patients,
5 such that the physician and surgeon represents a danger to the
6 public.

7 (2) Drug or alcohol abuse by a physician and surgeon involving
8 death or serious bodily injury to a patient.

9 (3) Repeated acts of clearly excessive prescribing, furnishing,
10 or administering of controlled substances, or repeated acts of
11 prescribing, dispensing, or furnishing of controlled substances
12 without a good faith prior examination of the patient and medical
13 reason therefor. However, in no event shall a physician and surgeon
14 prescribing, furnishing, or administering controlled substances for
15 intractable pain consistent with lawful prescribing, including, but
16 not limited to, Sections 725, 2241.5, and 2241.6 of this code and
17 Sections 11159.2 and 124961 of the Health and Safety Code, be
18 prosecuted for excessive prescribing and prompt review of the
19 applicability of these provisions shall be made in any complaint
20 that may implicate these provisions.

21 (4) Repeated acts of clearly excessive recommending of cannabis
22 to patients for medical purposes, or repeated acts of recommending
23 cannabis to patients for medical purposes without a good faith
24 prior examination of the patient and a medical reason for the
25 recommendation.

26 (5) Sexual misconduct with one or more patients during a course
27 of treatment or an examination.

28 (6) Practicing medicine while under the influence of drugs or
29 alcohol.

30 (7) Repeated acts of clearly excessive prescribing, furnishing,
31 or administering psychotropic medications to a minor without a
32 good faith prior examination of the patient and medical reason
33 therefor.

34 (b) The board may by regulation prioritize cases involving an
35 allegation of conduct that is not described in subdivision (a). Those
36 cases prioritized by regulation shall not be assigned a priority equal
37 to or higher than the priorities established in subdivision (a).

38 (c) The Medical Board of California shall indicate in its annual
39 report mandated by Section 2312 the number of temporary
40 restraining orders, interim suspension orders, and disciplinary

1 actions that are taken in each priority category specified in
2 subdivisions (a) and (b).

3 SEC. 2. Section 2245 is added to the Business and Professions
4 Code, to read:

5 2245. (a) The Medical Board of California on a quarterly basis
6 shall review the data provided pursuant to Section 14028 of the
7 Welfare and Institutions Code by the State Department of Health
8 Care Services and the State Department of Social Services in order
9 to determine if any potential violations of law or excessive
10 prescribing of psychotropic medications inconsistent with the
11 standard of care exist and, if warranted, shall conduct an
12 investigation.

13 (b) *The Medical Board of California shall disseminate guidelines*
14 *for the prescribing of psychotropic medications to children and*
15 *adolescents on an annual basis to any prescriber who has been*
16 *flagged for review.*

17 (b)

18 (c) If, after an investigation, the Medical Board of California
19 concludes that there was a violation of law, the board shall take
20 disciplinary action, as appropriate, as authorized by Section 2227.

21 (c)

22 (d) If, after an investigation, the Medical Board of California
23 concludes that there was excessive prescribing of psychotropic
24 medications inconsistent with the standard of care, the board shall
25 take action, as appropriate, as authorized by Section 2227.

26 (d)

27 (e) (1) Notwithstanding Section 10231.5 of the Government
28 Code, commencing July 1, 2017, the Medical Board of California
29 shall report ~~quarterly~~ *annually* to the Legislature, the State
30 Department of Health Care Services, and the State Department of
31 Social Services the results of the analysis of data described in
32 Section 14028 of the Welfare and Institutions Code.

33 (2) A report to be submitted pursuant to this subdivision shall
34 be submitted in compliance with Section 9795 of the Government
35 Code.

36 SEC. 3. Section 14028 is added to the Welfare and Institutions
37 Code, to read:

38 14028. (a) The Medical Board of California shall conduct on
39 a quarterly basis an analysis of Medi-Cal ~~and managed care~~
40 ~~prescribers~~ *physicians* and their prescribing patterns of

psychotropic medications and related services using data provided quarterly by the department in collaboration with the State Department of Social Services that shall include, but is not limited to, the child welfare psychotropic medication measures and the Healthcare Effectiveness Data and Information Set measures related to psychotropic medications. *The data concerning psychotropic medications and related services shall be shared pursuant to a data-sharing agreement that meets the requirements of all applicable state and federal laws and regulations. Every three years, the Medical Board of California, the State Department of Health Care Services, and the State Department of Social Services shall consult and revise the methodology, if determined to be necessary.*

(b) (1) The data provided to the Medical Board of California pursuant to subdivision (a) shall include a breakdown by population of all of the following:

(A) Children prescribed psychotropic medications in managed care and fee-for-service settings.

(B) Children adjudged as dependent children under Section 300 and placed in foster care.

~~(C) Children in juvenile halls, as described in Section 850, and children placed in ranches, camps, or other facilities, as described in Section 880.~~

~~(D)~~

(C) A minor adjudged a ward of the court under Section 601 or 602 who has been removed from the physical custody of the parent and placed into foster care.

~~(E)~~

(D) Children with developmental disabilities, as described in Section 4512.

(2) The data provided to the medical board as described in paragraph (1) shall include total rate and age stratifications that include the following:

(A) Birth to five years of age, inclusive.

(B) Six to 11 years of age, inclusive.

(C) Twelve to 17 years of age, inclusive.

(c) (1) *The data provided to the Medical Board of California pursuant to subdivision (a) shall include the information listed in paragraph (2) for each prescriber with a pattern of prescribing that includes one or more of the following:*

- 1 (A) *Prescriptions for any class of psychotropic medication for*
2 *a child who is five years of age or younger.*
3 (B) *Prescriptions for concurrent administration of two or more*
4 *antipsychotic medications that exceed 60 days.*
5 (C) *Prescriptions for concurrent administration of three or more*
6 *psychotropic medications exceeding 60 days.*
7 (D) *Prescriptions for a dosage that exceeds the amount*
8 *recommended for children.*
9 (2) *The following information shall be included for each*
10 *prescriber described in paragraph (1):*
11 (A) *Prescriber name, specialty, location, and contact*
12 *information.*
13 (B) *The child's gender and year of birth.*
14 (C) *A list of the psychotropic medications prescribed, diagnosis,*
15 *and the medication start and end date.*
16 (D) *Unit of each medication, quantity of each medication, the*
17 *day's supply, and the prescription fill date.*
18 (E) *The child's weight.*